



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, D.C. 20590

AUG 21 2014

Mr. John F. Birch
Radiation Safety Program Specialist
VEGA Americas, Inc.
4141 Rosslyn Dr.
Cincinnati, Ohio 45209

Reference No. 14-0109

Dear Mr. Birch:

This is in response to your June 3, 2014 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to labeling requirements. Specifically, you ask whether the three parts of § 172.406(b) must all be met in order to use the exception for label size. The exceptions for § 172.406(b) are as follows: (1) a package that contains no radioactive material and which has dimensions less than those of the required label; (2) a cylinder; and (3) a package which has such an irregular surface that a label cannot be satisfactorily affixed.

The answer is no. Section 172.406(b) allows for exceptions to the labeling requirements in § 172.406. While typically the use of the word "and" in the HMR indicates all requirements must be met, that is not the situation of § 172.406(b). In order to use the exception found in § 172.406(b), one must meet only one of the criteria. The Pipeline and Hazardous Materials Safety Administration (PHMSA) may consider clarifying this requirement in a future rulemaking.

I hope this satisfies your request.

Sincerely,

T. Glenn Foster
Chief, Regulatory Review and Reinvention Branch
Standards and Rulemaking Division

Looking Forward



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East Building, 1200 New Jersey Avenue, SE.,
Washington, DC 20590-0001

Andrews
§ 172.406 (b)
Labeling
14-0109

I am writing to request clarification with regard to 49 CFR 172.406(b), which states:

(b) Exceptions. A label may be printed on or placed on a securely affixed tag, or may be affixed by other suitable means to:

- (1) A package that contains no radioactive material and which has dimensions less than those of the required label;
- (2) A cylinder; and
- (3) A package which has such an irregular surface that a label cannot be satisfactorily affixed.

More specifically I would like to know whether the three exceptions are separate and stand alone. The way some in our organization read this list of exceptions is that the first exception applies to containers that are empty of radioactive materials and are smaller than the dimensions of the required labels, the second exception applies to cylinders regardless of whether they are empty of radioactive materials, and the third exception applies to containers with surfaces too irregular for the required labels regardless of whether they are empty of radioactive materials.

Others in our organization read this list to mean that the second and third exceptions are tied to the first. This would mean to them that the first exception is for containers too small for the required labels and empty of radioactive materials, the second exception is for cylinders empty of radioactive materials, and the third exception is for containers with surfaces too irregular for the required labels and empty of radioactive materials.

Clarification with regard to this list of exceptions in the regulations would be very much appreciated as it will enable our organization (manufacturer of fixed nuclear gauges) to streamline our shipping procedures. Thank you for your consideration and review of this issue.

Sincerely,
John F. Birch

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Drakeford, Carolyn (PHMSA)

From: INFOCNTR (PHMSA)
Sent: Tuesday, June 03, 2014 4:34 PM
To: Drakeford, Carolyn (PHMSA)
Subject: FW: request for clarification
Attachments: request for interpretation on 49 CFR 172.406(b).docx

Hi Carolyn,

This caller requested we submit this e-mail as a formal letter of interpretation.

Thanks,

Victoria

From: Birch, John [<mailto:j.birch@vega.com>]
Sent: Tuesday, June 03, 2014 8:39 AM
To: INFOCNTR (PHMSA)
Subject: request for clarification

Please find my attached letter (MS Word format) regarding clarification concerning exceptions for placing labels on shipments of Class 7 material.

Sincerely,
John F. Birch

John F. Birch
Radiation Safety Program Specialist

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